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APR 27 2017

Edwards,Michelle

CITY CLERK

From: Felling,Darrell
Sent: Thursday, April 27, 2017 11:00 AM
To: Nasser,Karrum; Crossen,Martha; Azar, George; Don.Morris@terrehuate.in.gov; DeBaun,Curtis; Auler,Amy; Garrison,Neil; Nation,Todd; Elliott,Earl
Cc: Meeks,Molly; Edwards,Michelle; dave.taylor@tribstar.com; Bennett,Duke A
Subject: Rezoning Memo
Attachments: Rezoning Memo City Council 4-27-17.docx

All,

Please find the attached memo regarding rezoning petitions. Please let me know if you have any follow up questions or concerns.

Best,

Darrell "Eddie" Felling II
City Attorney
City of Terre Haute Legal Department
812-244-2373

MEMORANDUM

TO: MEMBERS OF THE CITY COUNCIL

FROM: Eddie Felling

DATE: April 27, 2017

RE: Considerations for Rezoning

Council,

Due to several inquiries from members of the Council, administration, and public at large, I would like to bring some information to your attention regarding rezoning petitions. Attached is a memorandum issued by the legal department in 2002 by the then City Attorney, Lynn Francis. After reviewing this somewhat dated memo, I believe that all aspects discussed are still relevant to our current state and local code and will be helpful as you consider future rezoning requests. Please let me know if you have any questions or concerns.

MEMORANDUM

TO: MEMBERS OF THE CITY COUNCIL

FROM: Lynn Francis

DATE: November 13, 2002

RE: Considerations for Rezoning

Several council members have inquired regarding the appropriate consideration for a rezoning. The considerations are listed in I.C. 36-7-4-603 and are incorporated into the municipal zoning ordinance in Section 10-263 (c) (4). These are the items that should be considered by both the Plan Commission and the legislative body:

1. The comprehensive plan;
2. Current conditions and the character of current structures and uses in each district;
3. The most desirable use for which the land in each district is adapted;
4. The conservation of property values throughout the jurisdiction; and
5. Responsible development and growth.

Through case law, it is clear that when the legislative body hears testimony both in favor and opposed to the rezoning and makes the decision based upon one of these specific considerations, the decision is usually upheld. All of these considerations are seen as supportive of the intent and purposes to be served by the comprehensive zoning ordinance which are:

1. To promote public health, safety, morality, convenience and the general welfare.
2. To encourage the most appropriate use of land.
3. To conserve and stabilize the value of property.
4. To provide adequate open spaces for light and air.
5. To prevent excessive concentrations of population.
6. To eliminate congestion on streets and highways.

Members of the City Council
November 13, 2002
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These purposes are found in Section 10-20 of the comprehensive zoning ordinance. These purposes are not inconsistent with the purposes found in I.C. 36-7-4-201 which provide the purposes for the zoning provisions in State statute which are to encourage units to improve the health, safety, convenience, and welfare of their citizens and to plan for the future development of their communities to the end:

1. That highway systems be carefully planned;
2. That new communities grow only with adequate public way, utility, health, educational and recreational facility;
3. That the needs of agriculture, industry and business be recognized in future growth;
4. That residential areas provide helpful surroundings for family life; and
5. That the growth of the community is commensurate with and promotive of the efficient and economical use of public funds.

If I can be of additional assistance, please let me know.

LAF/nj